

ASSEMBLY BILL 40 (LRB -0705)

An Act to amend 961.55 (5) (intro.), 961.55 (5) (a), 961.55 (5) (b) and 961.55 (5) (c); and to create 961.55 (5) (e) 1. and 961.55 (5) (e) 2. of the statutes; relating to: forfeiture of money derived from a drug crime. (FE)

2005

10-27.	A.	Introduced by Representatives Bies, Albers, Fields, Gronemus, Gunderson, Gundrum, Hahn, Hines, Jeskewitz, Krawczyk, LeMahieu, Musser, Ott, Owens, Van Roy and Vos ; cosponsored by Senators A. Lasee and Kedzie .	
01-25.	A.	Read first time and referred to committee on Corrections and the Courts	41
01-27.	A.	Fiscal estimate received.	
02-03.	A.	Fiscal estimate received.	
02-09.	A.	Fiscal estimate received.	
02-09.	A.	Public hearing held.	
02-16.	A.	Executive action taken.	
02-22.	A.	Report passage recommended by committee on Corrections and the Courts, Ayes 6, Noes 3	87
02-22.	A.	Referred to committee on Rules	87
03-07.	A.	Fiscal estimate received.	
03-07.	A.	Fiscal estimate received.	
03-08.	A.	Placed on calendar 3-10-2005 by committee on Rules.	
03-10.	A.	Read a second time	123
03-10.	A.	Ordered to a third reading	123
03-10.	A.	Rules suspended	123
03-10.	A.	Read a third time and passed , Ayes 66, Noes 28	123
03-10.	A.	Ordered immediately messaged	124
03-15.	S.	Received from Assembly	127
03-15.	S.	Read first time and referred to committee on Judiciary, Corrections and Privacy	127
06-01.	S.	Public hearing held.	
06-06.	S.	Executive action taken.	
06-09.	S.	Report concurrence recommended by committee on Judiciary, Corrections and Privacy, Ayes 3, Noes 2	250
06-09.	S.	Available for scheduling.	
09-19.	S.	Referred to joint committee on Finance, pursuant to Senate Rule 41 (1)(e), by committee on Senate Organization, Ayes 5, Noes 0	353
10-26.	S.	Executive action taken.	
10-27.	S.	Report concurrence recommended by joint committee on Finance, Ayes 12, Noes 4	413
10-27.	S.	Available for scheduling.	
11-02.	S.	Placed on calendar 11-8-2005 by committee on Senate Organization.	
11-07.	S.	Senator Roessler added as a cosponsor.	
11-08.	S.	Read a second time.	
11-08.	S.	Ordered to a third reading.	
11-08.	S.	Rules suspended.	
11-08.	S.	Read a third time and concurred in , Ayes 18, Noes 15.	
11-08.	S.	Ordered immediately messaged.	
11-09.	A.	Received from Senate concurred in.	

2005
ENROLLED BILL

05en A-B-40

ADOPTED DOCUMENTS:

☒ **Orig** ☐ **Engr** ☐ **SubAmdt**

05 07051

Amendments to above (if none, write "NONE"): None

Corrections - show date (if none, write "NONE"): None

Topic relax

11/9/05
Date

[Signature]
Enrolling Drafter

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2005 ASSEMBLY BILL 40

January 25, 2005 – Introduced by Representatives BIES, ALBERS, FIELDS, GRONEMUS, GUNDERSON, GUNDRUM, HAHN, HINES, JESKEWITZ, KRAWCZYK, LEMAHIEU, MUSSER, OTT, OWENS, VAN ROY and VOS, cosponsored by Senators A. LASEE and KEDZIE. Referred to Committee on Corrections and the Courts.

- 1 **AN ACT to amend** 961.55 (5) (intro.), 961.55 (5) (a), 961.55 (5) (b) and 961.55 (5)
2 (c); and **to create** 961.55 (5) (e) 1. and 961.55 (5) (e) 2. of the statutes; **relating**
3 **to:** forfeiture of money derived from a drug crime.

Analysis by the Legislative Reference Bureau

Under current law, a state or local law enforcement agency may acquire certain property involved in the commission of crime through a forfeiture proceeding, which is generally initiated after the end of the criminal case to which it relates. In cases involving illegal drugs, the forfeiture law applies to the drugs themselves, materials and equipment used to process or package the drugs, vehicles used in connection with the offense, and property, including money, derived from the commission of the offense.

The Wisconsin Constitution specifies that the clear proceeds of property acquired by forfeiture must be deposited in the school fund. The provision of current law that implements this requirement permits an agency that seizes property that is later forfeited to retain 50 percent of the proceeds of the sale to cover the costs of its investigation and prosecution and other costs relating to the forfeiture proceeding and sale. But if the property seized is money, current law requires that all of the money be deposited in the school fund.

Under this bill, if money is forfeited in a drug case, the law enforcement agency that seized the money may retain 70 percent of any amount that does not exceed \$2,000 and 50 percent of any amount in excess of \$2,000 to cover the costs of its investigation and prosecution and other costs relating to the forfeiture proceeding and sale.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 961.55 (5) (intro.) of the statutes is amended to read:

2 961.55 (5) (intro.) When property is forfeited under this chapter, the agency
3 whose officer or employee seized the property ~~may~~ shall do one of the following:

4 **SECTION 2.** 961.55 (5) (a) of the statutes is amended to read:

5 961.55 (5) (a) Retain it for official use;.

6 **SECTION 3.** 961.55 (5) (b) of the statutes is amended to read:

7 961.55 (5) (b) Sell that which is not required to be destroyed by law and which
8 is not harmful to the public. The agency may use ~~50%~~ 50 percent of the amount
9 received for payment of ~~all proper expenses of the proceedings for forfeiture and sale,~~
10 ~~including expenses of seizure, maintenance of custody, advertising and court costs~~
11 ~~and the costs of investigation and prosecution reasonably incurred.~~ The remainder
12 shall be deposited in the school fund as proceeds of the forfeiture. In this paragraph,
13 “forfeiture expenses” include all proper expenses of the proceedings for forfeiture and
14 sale, including expenses of seizure, maintenance of custody, advertising, and court
15 costs and the costs of investigation and prosecution reasonably incurred.

16 (e) If the property forfeited is money, ~~all the money shall be deposited~~ retain
17 the sum of all of the following for payment of forfeiture expenses, as defined in par.
18 (b), and deposit the remainder in the school fund;.

19 **SECTION 4.** 961.55 (5) (c) of the statutes is amended to read:

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1 961.55 (5) (c) Require the sheriff of the county in which the property was seized
2 to take custody of the property and remove it for disposition in accordance with law;
3 or,

4 **SECTION 5.** 961.55 (5) (e) 1. of the statutes is created to read:

5 961.55 (5) (e) 1. If the amount of money does not exceed \$2,000, 70 percent of
6 that amount.

7 **SECTION 6.** 961.55 (5) (e) 2. of the statutes is created to read:

8 961.55 (5) (e) 2. Fifty percent of any amount seized in excess of \$2,000.

9 (END)